

Assembly Bill No. 2946

Passed the Assembly August 31, 2006

Chief Clerk of the Assembly

Passed the Senate August 30, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 9050 of, and to add Sections 102.5, 102.6, 9050.5, 13281.5, and 18606 to, the Elections Code, relating to initiatives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2946, Leno. Initiative, referendum, and recall petitions.

(1) Under existing law, any person who is a voter or is qualified to register to vote in this state may circulate an initiative or referendum petition, and any person who is a voter may circulate a recall petition.

This bill would provide that it is a misdemeanor for any person to pay or to receive money or any other thing of value based on the number of signatures obtained on a state or local initiative, referendum, or recall petition, or to pay or receive money or other thing of value based on the number of affidavits or applications obtained or completed when assisting with voter registration or the distribution of absentee ballot applications. By creating a new crime, this bill would impose a state-mandated local program.

The bill would additionally provide that any signatures collected in violation of any provision of state law relating to the circulation of a statewide initiative, referendum, or recall petition are invalid and cannot count towards the qualification of the initiative, referendum, or recall. The bill would also provide that the doctrine of substantial compliance may not be used to excuse a violation of these provisions, except for nonsubstantive grammar and spelling errors. The bill would provide that a proponent of an initiative, referendum, or recall petition may submit a petition prior to circulation to the Attorney General for approval.

(2) Existing law provides that it is a misdemeanor for a person circulating an initiative, referendum, or recall petition, to intentionally misrepresent or make any false statement concerning the contents or purported effect of the initiative, referendum, or recall petition to obtain a signature or to make any false statement with regard to whether the circulator is a paid

signature gatherer or volunteer. It is also a misdemeanor for any person working for the proponent or proponents of an initiative, referendum, or recall petition to refuse to allow a prospective signer to read the measure or petition, to obscure the summary of the measure, or to offer or give money or other valuable consideration in exchange for a signature.

This bill would provide that if a proponent of a statewide initiative, referendum, or recall petition has knowledge of a violation of any provision of law relating to the circulation of a statewide initiative, referendum, or recall petition committed by a person obtaining signatures on the proponent's petition, the proponent of the petition shall be subject to a civil penalty in an amount not exceeding the fine applicable to the violation committed by the person obtaining signatures on the initiative, referendum, or recall petition. The bill would provide that a proponent shall not be held liable under these provisions if the proponent notifies the Secretary of State in writing not less than one business day after obtaining knowledge of the potential violation. The bill would make the Attorney General responsible for enforcing these provisions.

(3) Existing law provides that the Attorney General shall provide and return to the Secretary of State a ballot title for each measure submitted to the voters of the whole state. Existing law provides that the Attorney General shall prepare the ballot label for statewide measures and the ballot label shall be a condensed statement of the ballot title prepared by him or her.

This bill would provide that the ballot title and summary and the ballot label prepared by the Attorney General must be stated in complete sentences and written in a manner so that the average voter will easily understand the purpose of the measure.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 102.5 is added to the Elections Code, to read:

102.5. (a) It shall be unlawful for any person to pay or to receive money or any other thing of value based on the number of signatures obtained on a state or local initiative, referendum, or recall petition, or to pay or receive money or any other thing of value based on the number of affidavits or applications obtained or completed when assisting with voter registration or the distribution of absentee ballot applications. Nothing herein prohibits the payment for signature gathering, voter registration, or distribution of absentee ballot applications not based, either directly or indirectly, on the number of signatures obtained, voter registration affidavits obtained or completed, or absentee ballot applications obtained or completed.

(b) Violation of this section shall be a misdemeanor.

SEC. 2. Section 102.6 is added to the Elections Code, to read:

102.6. (a) Any signatures collected in violation of any provision of state law relating to the circulation of a statewide initiative, referendum, or recall petition shall be invalid and shall not count towards qualification of the initiative, referendum, or recall.

(b) The doctrine of substantial compliance shall not be used by any elections official or court to excuse a violation of any provision of state law relating to the circulation of a statewide initiative, referendum, or recall petition, except for nonsubstantive grammatical and spelling errors.

(c) Any proponent of a statewide initiative, referendum, or recall petition may submit a petition prior to circulation to the Attorney General for approval. Upon receipt, the Attorney General shall review the petition for compliance with this code. Within 10 business days, the Attorney General shall notify the proponent in writing as to whether or not the petition complies with the requirements of this code. If the Attorney General determines the petition does not comply, he or she shall notify the proponent as to why the petition does not comply and afford the proponent another opportunity to submit any corrected petition for approval.

SEC. 3. Section 9050 of the Elections Code is amended to read:

9050. The Attorney General shall provide and return to the Secretary of State a ballot title and summary for each measure submitted to the voters of the whole state.

SEC. 4. Section 9050.5 is added to the Elections Code, to read:

9050.5. The ballot title and summary prepared by the Attorney General shall be stated in complete sentences and written in a manner so that the average voter will easily understand the purpose of the measure.

SEC. 5. Section 13281.5 is added to the Elections Code, to read:

13281.5. The ballot label prepared by the Attorney General shall be stated in complete sentences and written in a manner so that the average voter will easily understand the purpose of the measure.

SEC. 6. Section 18606 is added to the Elections Code, to read:

18606. (a) If a proponent of a statewide initiative, referendum, or recall petition has knowledge of a violation of any provision of state law relating to the circulation of a statewide initiative, referendum, or recall petition committed by a person obtaining signatures on the proponent's petition, the proponent of the petition shall be subject to a civil penalty in an amount not exceeding the fine applicable to the violation committed by the person obtaining signatures on the initiative, referendum, or recall petition.

(b) A proponent shall not be liable under subdivision (a) if the proponent notifies the Secretary of State in writing not later than one business day after the proponent obtains knowledge of potential violation. The notice shall state all of the following:

- (1) That a potential violation has occurred.
- (2) The nature of the potential violation.
- (3) All specific information known to the proponent regarding the potential violation.

(c) If a statewide initiative, referendum, or recall petition has more than one proponent, each proponent with knowledge may be held liable under subdivision (a).

(d) The Attorney General shall be responsible for enforcing this section.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2006

Governor